

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,
v.

CASE NO. 3:21-cr-05255-BHS

ORDER

STEPHEN RIAN PRICE,

Defendant.

This matter is before the Court on pro se defendant Stephen Price's motion to

withdraw his guilty plea, Dkt. 55.

On September 10, 2020, the Government sent a letter to Price's federal and state

attorneys stating that it “intend[ed] to pursue federal criminal charges against [Price] for

two counts of Production of Child Pornography, in violation of Title 18, United States

Code, Section 2251, for conduct committed by Mr. Price involving MV1 and MV2." D

59-1 at 2, The Government stated that it “is willing to enter into a global resolution with

Mr. Price, which would involve guilty pleas by Mr. Price in the Clark County and Federal

matters with a recommendation that the sentences imposed run concurrently.” *Id.* This

1 letter does not indicate what sentence the Government would recommend, but it states
 2 that the State would recommend a sentence of 318 months.¹ *Id.* at 3

3 On September 30, 2021, Price pleaded guilty to two counts of production of child
 4 pornography in violation of 18 U.S.C. §§ 2251(a) and (e). Dkts. 9, 10. His plea agreement
 5 provides that he entered into it freely and voluntarily:

6 Defendant agrees that Defendant has entered into this Plea Agreement
 7 freely and voluntarily, and that no threats or promises were made to induce
 8 Defendant to enter a plea of guilty other than the promises contained in this
 Plea Agreement or set forth on the record at the change of plea hearing in
 this matter.

9 Dkt. 9 at 14.

10 During his plea hearing, Magistrate Judge J. Richard Creatura reviewed the plea
 11 agreement with Price, including the elements of the charges, the potential penalties, and
 12 the rights that Price would waive should he plead guilty. Price testified that he understood
 13 the terms of the agreement, that nobody had promised or guaranteed what sentence the
 14 Court would impose, that he understood that the Court is not bound by the parties'
 15 sentencing recommendations, and that he had not received any promises other than those
 16 in the plea agreement. Price pleaded guilty and Judge Creatura found that the plea was
 17 entered knowingly, intelligently, and voluntarily.

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20 ¹ This letter states that, pursuant to a global plea agreement, “[t]he guilty pleas in the
 21 Clark County matters would be to the amended charges of two counts of Rape of a Child in the
 First Degree, one count of Child Molestation in the First Degree, and one count of Dealing in
 22 Depictions of Minors Engaged in Sexually Explicit Conduct in the First Degree.” Dkt. 59-1 at 2–
 3. It further states that “Clark County agrees to dismiss all remaining counts and not to pursue an
 exceptional sentence based on the existence of multiple aggravating circumstances.” *Id.* at 3.

1 Judge Creatura then entered a report and recommendation stating, “[a]fter
 2 examining the defendant under oath, I determined that the guilty plea was knowingly,
 3 intelligently, and voluntarily made, and that the offense[s] charged [are] supported by an
 4 independent basis in fact containing each of the essential elements of such offense[s].”

5 Dkt. 12 at 1. Judge Creatura “recommend[ed] that the defendant be adjudicated guilty
 6 and have sentence imposed.” *Id.* The Court subsequently entered an order “accept[ing]
 7 the plea of guilty of the defendant to the charge[s] in the Information,” and “adjudg[ing]
 8 [the defendant] guilty of such offenses.” *Id.*

9 According to the Government, Price was subsequently returned to state custody,
 10 refused to plead guilty to the state charges, and proceeded to trial on those charges in
 11 Clark County Superior Court. Dkt. 59 at 3. A jury found Price guilty of 17 felony
 12 offenses.² Dkt. 59-2 at 2–3. On March 24, 2023, that court sentenced Price to 1,306
 13 months of imprisonment. *Id.* at 9.

14 Price moves to withdraw his guilty plea in this Court “based on the fact that when
 15 [he] pled guilty the writ [the Court] signed said that [he] was to be sent back to state same
 16 day.” Dkt. 55 at 1. According to Price, he “was instead transported to [Federal Detention
 17 Center,] SeaTac and left [t]here for one and a half months.” *Id.* Price asserts that he “only
 18 pled guilty to take care of [his] state case first.” *Id.*

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20 ² These include: four counts of rape of a child in the first degree, domestic violence; one
 21 count of rape of a child in the first degree; one count of child molestation in the first degree,
 22 domestic violence; three counts of dealing in depictions of a minor engaged in sexually explicit
 conduct in the first degree; three counts of sexual exploitation of a minor, domestic violence; one
 count of sexual exploitation of a minor; and four counts of possession of depictions of a minor
 engaged in sexually explicit conduct in the first degree. Dkt. 59-2 at 2–3.

1 The Government opposes Price's motion. Dkt. 59. It asserts that Price fails to
2 satisfy his burden of establishing "a 'fair and just reason' that permits him to withdraw
3 his guilty plea under [Federal] Rule [of Criminal Procedure] 11(d)(2)(B)." *Id.* at 5. It
4 asserts that Price's two reasons for wanting to withdraw his guilty plea—first, that he was
5 not transported to state custody quickly enough to address his state charges and, second,
6 that he pleaded guilty only so that he could address his state charges first—do not
7 constitute fair and just reasons for doing so. *Id.* at 6–7. The Government contends that
8 "[t]he speed of defendants' [sic] transport has no impact whatsoever on his plea nor is
9 there any showing that a delay even existed, let alone that it caused any prejudice." *Id.* at
10 7. It also contends that "there was no need to plead to the federal charges to address the
11 state charges" and that, even if there was, "that is not a fair and just reason to withdraw
12 his guilty plea." *Id.*

13 The Government asserts that "[t]he record indicates that Price wishes to withdraw
14 his guilty plea because he is unhappy with the lengthy sentence he received on his state
15 charges." *Id.* This is so, according to the Government, because Price waited until the date
16 that his sentencing was supposed to occur—which was nearly three years after he pleaded
17 guilty—to move to withdraw his guilty plea. *Id.*; *see* Dkt. 51.

18 Price replies that he is "not withdrawing [his] plea based on [his] sentencing." Dkt.
19 65 at 1. He asserts that his motion should be granted because: "(1) [his] mental state at
20 the time of pleading guilty was/is not what it should be, I have diagnosis for PTSD, Mild
21 Major Depressive Disorder and Bipolar disorder, (2) [he] was lied to by multiple lawyers
22 and the courts when the writ on September 30th 2019 was given. Being held at FDC

1 SeaTac prevented me from completing my state case sooner.” *Id.* Price also asserts that
 2 “[his] mental health being what it is, [he] felt pressured into pleading guilty, [he] never
 3 wanted to plead guilty, [his] plan from the start was to go to trial.” *Id.*

4 Under the Federal Rules of Criminal Procedure, “[a] defendant may withdraw a
 5 plea of guilty . . . after the court accepts the plea, but before it imposes sentence if . . . the
 6 defendant can show a fair and just reason for requesting the withdrawal.” Fed. R. Crim.
 7 P. 11(d)(2)(B). “Although this standard is liberal, it must be consistent with ‘Rule 11’s
 8 purpose of ensuring some finality at the time pleas are accepted.’” *United States v.*
 9 *Minasyan*, 4 F.4th 770, 778 (9th Cir. 2021), *cert. denied*, 142 S. Ct. 928 (2022) (quoting
 10 *United States v. Ensminger*, 567 F.3d 587, 593 (9th Cir. 2009)). Accordingly, “[o]nce
 11 the plea is accepted, permitting withdrawal is, as it ought to be, the exception, not an
 12 automatic right.” *Minasyan*, 4 F.4th at 779 (quoting *Ensminger*, 567 F.3d at 593).

13 “Importantly, the burden is on the defendant to show a permissible reason to
 14 withdraw the guilty plea.” *Minasyan*, 4 F.4th at 779. This “includes reasons like
 15 ‘inadequate Rule 11 plea colloquies, newly discovered evidence, intervening
 16 circumstances, or any other reason for withdrawing the plea that did not exist when the
 17 defendant entered his plea.’” *Id.* (quoting *Ensminger*, 567 F.3d at 590–91). “[A] change
 18 of heart—even a ‘good faith change of heart’—is not a fair and just reason that entitled [a
 19 defendant] to withdraw his plea, even where the government incurs no prejudice.”
 20 *Ensminger*, 567 F.3d at 593 (quoting *United States v. Rios-Ortiz*, 830 F.3d 1067, 1069
 21 (9th Cir. 1987)). “[T]he decision to allow withdrawal of a plea is solely within the
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1 discretion of the district court.” *United States v. Nostratis*, 321 F.3d 1206, 1208 (9th Cir.
2 2003).

3 Price does not challenge the adequacy of the Rule 11 hearing and, in any event,
4 the Court concludes that this hearing was adequate. A review of the transcript of this
5 hearing reveals that Price entered into the agreement knowingly, intelligently, and
6 voluntarily. He provides no fact, in any sworn statements or in his briefing, that
7 undermines this conclusion. His only factual assertions are (1) that he been diagnosed
8 with “PTSD, Mild Major Depressive Disorder and Bipolar disorder,” Dkt. 65 at 1, (2)
9 that, because of his “mental health,” he “felt pressured into pleading guilty,” *id.*, and (3)
10 that he pleaded guilty “to take care of [his] state case first.” Dkt. 55 at 1. Concerning the
11 first two factual assertions, Price does not argue that any of his claimed medical
12 conditions precluded him from understanding either the terms of the plea agreement or
13 the Rule 11 hearing. He also does not support either of these factual assertions with
14 medical records or any other evidence. Moreover, the third factual assertion does not bear
15 on whether Price entered his guilty plea knowingly, intelligently, and voluntarily, and it
16 does not otherwise amount to a fair and just reason supporting the withdrawal of his plea.

17 Nor could Price show that he is no longer bound by the plea agreement because he
18 proceeded to trial on the state charges. Although the Government’s briefing refers to the
19 plea agreement between itself and Price as a “global plea deal,” Dkt. 59 at 3, the record
20 indicates otherwise. The Government’s plea agreement states that “[t]he United States
21 and Defendant acknowledge that these terms constitute the entire Plea Agreement
22 between the parties, except as may be set forth on the record at the change of plea hearing

1 in this matter.” Dkt. 9 at 15. Nothing in this plea agreement provides that its terms are
2 contingent upon Price pleading guilty to the state charges. *See generally* Dkt. 9. The
3 parties also did not make any additional agreements during the plea hearing.

4 But even if this plea agreement required Price to plead guilty to the state charges,
5 Price is not entitled to withdraw his guilty plea simply because he proceeded to trial on
6 the state charges. The plea agreement between Price and the Government states that
7 “Defendants agrees that, if Defendant breaches this plea Agreement, *the United States*
8 may withdraw from this Plea Agreement and Defendant may be prosecuted for all
9 offenses for which the United States has evidence.” Dkt. 9 at 12 (emphasis added). The
10 plea agreement does not contain any term permitting *Price* to withdraw from it upon his
11 own breach of the agreement. *See generally* Dkt. 9.

12 In sum, Price fails to satisfy his burden of showing a fair and just reason
13 warranting the withdrawal of his guilty plea. Therefore, it is hereby **ORDERED** that
14 Price’s motion to withdraw his guilty plea, Dkt. 55, is **DENIED**.

15 Dated this 22nd day of August, 2023.

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BENJAMIN H. SETTLE
United States District Judge